

REMARKS

Claims 1, 2, and 4-10 are presently pending and stand rejected.

Claims 1, 2, and 4 were rejected under 35 U.S.C. § 103(a) as being obvious from the combination of Fimoff in view of Yuan and further in view of AAPA.

Claim 1 recites, among other limitations, "a frame buffer for storing past and future reference pictures" and "said pixel reconstructor further comprising: a macroblock input buffer for storing the reference pixels that are fetched from a frame buffer by the video request manager at the addresses calculated by the motion vector address computer; and a register for storing a portion of the reference pixels that are fetched from the frame buffer by the video request manager at the addresses calculated by the motion vector address computer" and "wherein the register, macroblock input buffer, and frame buffers are separate".

Examiner has indicated that "Fimoff (modified by Yuan) as a whole is silent in regards to register for storing a portion of the reference pixels that are fetched from the frame buffer by the video request manager at the addresses from the frame buffer that were calculated by the motion vector address computer" Office Action at 5. However, Examiner has indicated that the foregoing is taught in application, 0007. Id. Assignee respectfully traverses and submits that AAPA does not teach "a register for storing a portion of the reference pixels ...".

Assignee particularly traverse that "the frame buffer as described by AAP performs the same function as the claimed register." Note that in Figure 2, there is shown frame buffers 219, and MPEG Video Decoder 209. Figure 3 shows the Video Decoder. Figures 4 and 5 show the pixel reconstructor, which includes the claimed register. Furthermore, while the frame buffer store the entire reference picture. The motion vector address computer calculates that address of the reference pixels needed for decoding a particular macroblock. The register stores that "portion of the reference pixels that are fetched from the frame buffer by the video request manager at the addresses calculated by the motion vector address computer".

Accordingly, for at least this reason, Assignee respectfully requests withdrawal of the rejection to independent claims 1 and 5, as well as to dependent claims 2, 4, 6-10.

Furthermore, in regards to claim 1, Examiner has conceded that Fimoff (modified by Yuan and AAPA):

"still fails to teach wherein the register, macroblock input buffer, and frame buffers are separate. However, it would have been an obvious modification readily apparent to one of ordinary skill in the art at the time of the invention since it entails to separate the register, macroblock input buffer, and frame buffers, which is merely to make separable, a distinction which the courts have already ruled against *Nerwin v. Erlichman*, 168 USPQ 177, 1179 (PTO Bd. Of Int. 1969).

Assignee respectfully submits that the foregoing application of the alleged holding *Nerwin* is an error of law. The Board of Patent Appeals and Interferences has rejected the foregoing reasoning involving *Nerwin* on

several occasions.

In the pre-appeal brief, Assignee cited several cases, e.g., *Ex Parte Holmes*, *Ex Parte Gruden*, *Ex Parte Pennell*, *Ex Parte Bozmoski*. Examiner argues various factual distinctions. However, each of the foregoing cases were cited to demonstrate that the application of *Nerwin v. Erlichman* in the present case has been resoundingly rejected. None of the distinctions made by Examiner change the fact that in each of the foregoing cases, positions similar to Examiner's ("separate the register, macroblock input buffer, and frame buffers, which is merely to make separable, a distinction which the courts have already ruled against *Nerwin v. Erlichman*, 168 USPQ 177, 1179") were rejected.

Moreover, *Nerwin* was overruled in *Ex parte Bozmowski* ("the Examiner has cited this case for the proposition that '[t]he mere fact that a given structure is integral does not preclude it consisting of various elements.' *Id.* In our view this statement reflects a discredited *per se* rule for obviousness and cannot be relied upon as support in this obviousness rejection.").

Accordingly, Assignee respectfully requests withdrawal of the rejections to claims 1, 2, and 4-10.

CONCLUSION

For at least the foregoing reasons, Assignee respectfully submits that each of the pending claims are allowable and Examiner is respectfully requested to pass this case to issuance. The Commissioner is hereby authorized to charge additional fees or credit overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

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Respectfully submitted,



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